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HIS HIGHNESS' GOVERNMENT, JAMMU & KASHMIR

ACT No. XI OF 1997.

**THE JAMMU AND KASHMIR TOWN PLANNING
ACT OF 1997.**



JAMMU:

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Town Planning

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RAJA SABHA DEPARTMENT.

The following Act, which has received the assent of His Highness the Maharaja Bahadur, is hereby published for general information : —

ACT NO. XI OF 1997.

The Jammu and Kashmir Town Planning Act, 1997.

Whereas it is expedient that the development of towns should be regulated to secure to their present and future inhabitants sanitary conditions, amenity, and convenience ; it is hereby enacted as follows : —

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) The Act may be called "The Jammu and Kashmir Town-Planning Act," S. 1997.

Short title and extent.

(2) It shall extend in the first instance to the Municipalities of Srinagar and Jammu but Government may by notification in the Government Gazette direct that it shall extend in whole or in part to any other part or parts of the State.

(3) The Jammu and Kashmir Town Planning and Improvement Act No. IV of 1996 is hereby repealed :

Provided that notifications issued under section 3 of the repealed Act shall, notwithstanding anything contained in this Act, be deemed to have been issued under section 8 of this Act.

2. In this Act, unless there is anything repugnant in the subject or context—

Definitions.

(1) "the committee" means a Municipal Committee in a Municipality and a Town Area Committee in a Town Area and such Committee or officer as the Government may appoint for the purpose of this Act in any other area ;

(2) "Director" means Director of Town Planning ;

(3) "owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rents or profits of the property in connection with which the word is used ;

(4) "plan" is a map or a drawing illustrating a scheme and the boundaries of an area to which such a scheme is meant to apply ;

(5) "plot" means a continuous portion of land held in one ownership other than land used, allotted or reserved for any public or Municipal purpose ;

(6) "prescribed" means prescribed by rules made under this Act ;

(7) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme otherwise than by the severance of land used, allotted or reserved for any public or Municipal purpose ;

(8) "responsible authority" means the authority or person, who is specified in a scheme as responsible for carrying out and enforcing the observance of all or any of the provision of the scheme or for enforcing the execution of any works which under the scheme are to be executed by any other person ;

(9) "scheme" means a town-planning scheme and includes a plan and its appendices relating to a town-planning scheme ;

(10) "town-planning" includes town improvement.

CHAPTER II.

TOWN-PLANNING SCHEME.

3. A town-planning scheme may provide for all or any of the following matters:—
Matters that may be dealt with in scheme.

(a) the laying out or re-laying out of land, either vacant or already built upon, as building sites or for any of the purposes mentioned in this section ;

(b) the construction, diversion, extension, alteration, improvement or closure of streets, roads and communications ;

(c) the construction, alteration, removal or demolition of buildings, bridges and other structures ;

(d) the acquisition by purchase, exchange or otherwise, of any land or other immovable property within the area included in the scheme whether required immediately or not ;

(e) the redistribution of boundaries and the reconstitution of the plots belonging to owners of property comprised in the scheme ;

(f) the disposal by sale, exchange, lease or otherwise of land acquired or owned by the Committee ;

(g) transport facilities ;

(h) water-supply ;

(i) lighting ;

(j) drainage inclusive of sewerage and of surface drainage and sewage disposal ;

(k) the allotment or reservation of land for streets, roads,

squares, houses, buildings for religious and charitable purposes, open spaces, gardens, recreation grounds, schools, markets, shops, factories, hospitals, dispensaries, Government and Municipal buildings, and public purposes of all kinds ;

(l) construction of houses ;

(m) the preservation of objects and building of archeological or historic interest or of natural beauty or actually used for religious purposes or regarded by the public with special religious veneration ;

(n) the imposition of conditions and restrictions in regard to the character, number, architectural features and height of constructions to be allowed in specified areas, and the purposes to which buildings or specified areas may or may not be appropriated, and the provision and maintenance of sufficient open space about buildings ;

(o) the suspension, restriction or modification so far as may be necessary for the carrying out of the scheme, of any provision in the Municipal Act or the Town Area Act or in any rule or bye-law made under either of the aforesaid Acts and in force in the area included in the scheme ;

(p) the advance to the owners of land or buildings comprised within the scheme, upon such terms and conditions as may be provided by the scheme, of the whole or part of the amount required for the erection of buildings or for the carrying out of the works, alterations or improvements in accordance with the scheme ;

(q) such other matters not inconsistent with the objects of this Act as may be prescribed.

Provided that every Town-Planning Scheme shall contain adequate provision for a plot for the purposes of building a residential house for a person who is displaced from his dwelling house by the execution of any scheme sanctioned under this Act.

4. (1) The size and shape of every reconstituted plot shall be so determined as to render it, so far as may be suitable for building purposes.

(2) In order to render original plots more suitable for building purposes, the scheme may contain proposals -

(a) to form a reconstituted plot by the alteration of the boundaries of an original plot ;

(b) to provide, with the consent of the owners, that two or more original plots, each of which is held in ownership in severalty or in joint ownership, shall thereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot ;

- (c) to allot a plot to any owner dispossessed of land in furtherance of the scheme; and
 (d) to transfer the ownership of a plot from one person to another.

CHAPTER III.

MAKING VARIATION AND REVOCATION OF SCHEMES AND THEIR EFFECT.

5. (1) The Government may appoint a person to be Appointment of Director of Town Planning. Director of Town Planning and assign to him such salary and establishment as they deem fit.

(2) The cost of such officer and his establishment shall be paid out of Government revenue.

(3) The Director of Town Planning shall exercise such powers under this Act as may be delegated by the Government and shall discharge such duties under the Act and be consulted in such other matters by the Municipal and Town Area Committees as may be prescribed.

6. (1) The Committee may, by resolution, decide to Declaration of intention to make or adopt scheme. prepare a scheme in respect of any land, within the Municipal area or in its vicinity outside such area, or to adopt, with or without modifications, a draft scheme proposed by all or any of the owners of any such land.

(2) No town-planning scheme made or adopted by the Committee shall include any area outside its limits without the concurrence of the Committee or of the Revenue Department, as the case may be, having jurisdiction over such area :

Provided that if the Committee or Revenue Department omits, for six months from the date of receipt of the communication requesting such concurrence, to send a final reply thereto, such concurrence shall be deemed to have been given :

Provided further, that, where such concurrence is refused, Government may, after considering the objections of such Committee or Revenue Department, over-rule them and permit such area to be included in the scheme.

7. A draft scheme when prepared or adopted shall be Publication of draft scheme. published for public information in the prescribed manner.

8. Notwithstanding anything contained in sections 6 and 7, Power of Government to require committee to make scheme. the Government may, in respect of any area, after such inquiry as they may deem necessary, by notification in the Government

Gazette, require the Committee, before a fixed date to prepare, publish and submit for their sanction a draft scheme with respect to any land in regard to which a town-planning scheme may be made.

9. (1) Every draft scheme shall contain the following particulars :—

Contents of draft scheme.

- (a) a plan showing the lines of existing and proposed streets together with their existing and proposed section or profiles ;
- (b) the ownership of all lands and buildings in the area to which the scheme relates ;
- (c) the area of all such lands whether public or private ;
- (d) a full description of all details of the scheme under such clauses of section 3 as may be applicable ;
- (e) a financial estimate of the receipts and expenditure of the scheme ;
- (f) any other particulars or plans that may be prescribed or specially required by the Government.

(2) Every draft scheme which includes a housing scheme shall also contain the following particulars, namely :

- (i) the approximate number and the nature of the houses to be provided ;
- (ii) the approximate quantity of land to be acquired and the localities in which land is acquired ;
- (iii) the average number of houses per acre ;
- (iv) area under roads ;
- (v) area under spaces for public purposes including recreations ; and
- (vi) all matters incidental to the housing scheme.

(3) A draft scheme may provide that any person who commits or knowingly permits a breach of any specified provision of the scheme, or who neglects or fails to comply with any such provision, shall, on conviction, be punishable under section 38.

10. (1) If within sixty days from the date of the publication of a draft scheme any person affected by such scheme communicates in writing any objection or suggestion relating thereto, the Committee shall consider such objection or suggestion and may modify the scheme as it thinks fit.

Sanctioning of scheme by Government.

(2) The scheme as passed or adopted by the Committee shall be submitted to the Government for sanction and the fact of such submission shall be published in the prescribed manner.

(3) The Government may, after considering the objections and suggestions, if any, and making such inquiry as they think fit, sanction the scheme with or without modifications, or may

refuse to sanction the scheme or return the scheme to Committee for reconsideration.

(4) The sanction of the Government to a scheme under sub-section (3) shall be published by notification in Government Gazette and such notification shall state at what place and time the scheme will be open to the inspection of the public.

(5) A notification under sub-section (4) shall be conclusive evidence that the scheme has been duly made and sanctioned. The scheme shall have effect from the date of publication of such notification, and the execution of the scheme shall be commenced forthwith :

Provided that, where the scheme so provides, the execution of the scheme or any part thereof may be deferred until such time as may be fixed in the scheme.

11. A town-planning scheme sanctioned under section 10 may at any time be varied or revoked by a subsequent or by a supplementary scheme published and sanctioned in accordance with this Act with the concurrence of the Government.

12. After the publication of a notification under section 7 or section 8, no person shall erect, or proceed with any building or work on, or enter into carry out a contract in respect of land within the area included in the scheme, without permission of the responsible authority.

13. From the date of the notification of the Government sanctioning a scheme under section 10, all owners of land and buildings in the area effected by the scheme who propose to construct or reconstruct or in any way alter or add to buildings shall conform in every particular with the requirements of such schemes; and no building shall be constructed or reconstructed in any area in which building is expressly forbidden in the scheme, or which is reserved in the scheme for any purpose incompatible with building.

14. (1) On and after the day on which the scheme comes into force, the responsible authority may make a provisional order requiring an owner:—

- (a) to remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with; or
- (b) to execute within a specified period any work which it is the owner's duty to execute under the scheme,

where the responsible authority is of opinion that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) The responsible authority shall serve a copy of the provisional order made under sub section (1) on the owner, together with a notice requiring him to show cause, within a reasonable time to be specified in such notice, why the order should not be confirmed.

(3) If the owner fails to show cause to the satisfaction of the responsible authority, the said authority may confirm the order granting such further period as it may deem fit, to execute the work and such order shall be communicated to and be binding on the owner and may be enforced. The expenses of enforcement may be recovered in the prescribed manner. An appeal shall lie to the Government against the order of the responsible authority and their decision shall be final.

(4) After a scheme is sanctioned by the Government, the power of carrying out the provisions of this Act shall vest in the responsible authority.

CHAPTER IV.

COMPENSATION FOR INJURIOUS AFFECTION AND CONTRIBUTION FOR BETTERMENT.

15. Any person whose property is injuriously affected by any refusal to grant the permission applied for under section 12 or by the making of a town-planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date of publication of a notification by the Government sanctioning the scheme under section 10, be entitled to obtain compensation in respect thereof from the Municipal or Town fund, as the case may be.

16. A person shall not be entitled to obtain compensation under section 15 on account of any building erected on, or contract made, or other thing done, with respect to land included in a scheme, after the date of the resolution under section 6, or the publication of a notification under section 8, as the case may be. Provided that this provision shall not apply to any building erected, contract made or other thing done in accordance with a permission granted under section 12.

17. (1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof, if or in so far as the provisions are such as would have been enforceable without compensation under any law, rule or bye-law at the time in force.

(2) Property shall not be deemed to be injuriously affected by reason of any provisions inserted in a scheme, which impose any conditions or restrictions in regard to any of the matters specified in section 3, clause (m) or clause (n).

(3) Where a person is entitled to compensation under this Act in respect of any matter or thing and he would be entitled to compensation in respect of the same matter or thing under any other Act, he shall not be entitled to compensation in respect of that matter or thing under both the Acts, nor shall he be entitled to any larger compensation under this Act, than he would be entitled to under the other Act.

18. (1) The Committee may, within three months from the date of an award of compensation in respect of property injuriously affected, make an application to the Government to sanction the withdrawal or modification of all or any of the provisions of the scheme which gave rise to the claim for compensation and give notice of such application the owner of such property.

(2) If the Government accord such sanction, the award of compensation shall stand cancelled, and the Committee shall pay the costs, if any, awarded by the arbitrator in connection with the claim for compensation.

(3) Nothing contained in this section shall affect the right of the owner to make a fresh claim for compensation in respect of the modified scheme sanctioned by the Government under sub-section (2).

(4) No award of compensation in respect of property injuriously affected shall be enforceable within three months from the date thereof, or, if notice has been given under sub-section (1) pending the orders of the Government on the application made under the same sub-section.

19. Whereby the making of any town-planning scheme the value of any property has increased or is likely to increase and where such scheme provides for levy of a betterment contribution, the Committee, if it makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date of publication of notification of the

Exclusion or limitation of compensation in certain cases

Application for sanction or withdrawal or modification of the scheme.

Power to levy betterment contributor.

Government sanctioning a scheme under section 10 shall be entitled to recover from the owner of such property an annual betterment contribution for such term of years and at such uniform percentage of the increase in value not exceeding ten per cent. as may be fixed in the scheme :

Provided that the aggregate amount of the contribution so recovered shall not exceed one-half of the maximum increase in value during the aforesaid term of years as ascertained under the next following section.

20. The betterment contribution shall be levied according to the following principles :—
 Betterment contribution how calculated.

(a) In respect of each property on which the contribution may be levied under section 19, its market value at the date of the resolution under section 6 or the publication of a notification under section 8, as the case may be, shall be estimated without reference to the improvements contemplated in the scheme.

(b) In each of the financial years following that in which the scheme takes effect under section 10 sub-section (5) the market value of each such property on the first day of Katik of that year shall be estimated by the responsible authority.

(c) If in any financial year, the market value estimated under clause (b) does not exceed that estimated under clause (a) no betterment contribution shall be levied for that year.

(d) If, in any financial year, the estimated market value under clause (b) exceeds that under clause (a), the Committee shall levy on the difference a betterment contribution according to the percentage fixed in the scheme :

Provided that in estimating the market value of land under clause (a) or clause (b), the value of buildings or other works erected or in the course of erection on such land shall not be taken into consideration.

21. (1) The betterment contribution shall be a first charge on the property on which it is due, subject to the prior payment of land revenue, if any, due to the Government thereon, and shall be paid in half-yearly instalments of one-half of the amount fixed for the year.

(2) The Government may make rules for the assessment and collection of the betterment contribution and the right of appeal in respect thereof.

(3) The following buildings and lands shall be exempt :—

(a) places set apart for public worship and either actually so used or used for no other purpose ;

(b) places used for the charitable purpose of sheltering the destitute or animals and orphanages, homes and

schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the Committee ;

- (c) such ancient monuments protected under the existing law as are not used as residential quarters or public offices ;
- (d) charitable hospitals and dispensaries but not including residential quarters attached thereto ;
- (e) burial and burning grounds ;
- (f) such other lands and buildings as the Government may notify from time to time or as may be specially mentioned in the scheme.

22. (1) If the owner of any property separately registered in the Municipal assessment book and assessed to a betterment contribution in any particular year objects to the amount of such contribution on the ground that the market value estimated under clause (b) of section 20 is excessive, he shall state the market value which, he contends, is correct, and may, within 30 days of the date on which the determination of his objection or appeal becomes final, by written notice, require the Committee to acquire the property together with any building or other works that may exist thereon.

(2) The Committee shall thereupon either acquire the property or accept the market value as stated by the owner and revise its assessment of the betterment contribution in accordance therewith.

(3) In case the Committee elects to acquire the property the compensation payable therefor shall be determined according to the provisions of the Land Acquisition Act, or according to those provisions as modified by sections 29 and 30, as the case may require :

Provided that the compensation payable for the property, apart from the buildings or other works thereon, shall not exceed the market value stated by the owner under sub-section (1).

CHAPTER V.

THE ARBITRATOR.

23. (1) After a scheme has been sanctioned the Government may and if so required by the responsible authority or any person interested in the scheme shall appoint an arbitrator with sufficient establish-

Government to appoint arbitrator.

ment to discharge all or any of the following duties :

- (a) To pass such orders as may be required under clauses (a) to (d) of sub-section (2) of section 4 ;
- (b) To define, and, where necessary, to demarcate or cause the demarcation of reconstituted plots or the areas allotted to, or reserved for, the purposes mentioned in clause (k) of section 3 ;
- (c) To decide, in reference to the claims made, whether any property is injuriously affected within the meaning of section 15, and award the compensation, if any, to be paid to the owner concerned, in accordance with the provisions contained in Chapter IV ; and
- (d) To determine, in reference to the claims made, the properties which are liable to the betterment contribution under section 19 and estimate and record their market value at the date of the resolution under section 6 or the publication of a notification under section 8, as the case may be, in accordance with the provisions of clause a) of section 20

(2) The decisions of the arbitrator under clauses (a) and (b) of sub-section (1) shall be read as part of the scheme sanctioned under section 10 and shall be final and binding on all persons :

Provided that where any such decision is in conflict with any provision in the scheme it shall require the approval of the Government, and on such approval being given shall be deemed, to the extent mentioned in such decision, to have varied the sanctioned scheme.

24. (1) The arbitrator shall give notice of his proceedings and conduct them in the prescribed manner and communicate his decision to the parties concerned.

Powers and duties of arbitrator.

(2) An arbitrator shall have all the powers of a civil court under the Code of Civil Procedure, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

(3) The costs of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

25. (1) Any party aggrieved by any decision of the arbitrator under clause (c) or clause (d) of sub-section (1) of section 23 may, within three

Appeal.

months from the date of the communication of such decision, appeal to the District Judge.

(2) The decision of the arbitrator under clause (c) or clause (d) of sub-section (1) of section 23 and, when an appeal has been preferred under sub-section (1), the decision on such appeal shall be read as part of the scheme sanctioned under section 10 and shall be final and binding on all persons.

CHAPTER VI.

FINANCE.

26. (1) The receipts of the Committee under this Act or ^{Municipal} ^{town-} any town-planning scheme made thereunder ^{planning fund.} shall form a separate town-planning fund and all expenditure under this Act or any town-planning scheme thereunder shall be defrayed out of such fund. No portion of the fund shall except with the sanction of the Government, be expended for purposes not provided for by this Act.

(2) The moneys required, in the first instance, to establish such fund, and any deficiency from time to time occurring in such fund by reason of the excess of expenditure over receipts shall, subject to such rules as the Government may frame in this behalf, be supplied out of the general Municipal Fund or out of Government subventions or out of moneys borrowed in pursuance of this Act.

(3) Separate accounts shall be maintained by each Committee for its town-planning fund.

27. The Committee, taking action under this Act, shall be deemed to be a local authority as defined in the Local Authorities Loans Act, for the purpose of borrowing money under the provisions of that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

28. (1) With a view to afford facilities to the Committees for obtaining the funds they require for the purposes of this Act, the Government may constitute a general town-planning fund.

(2) The moneys required in the first instance to establish such fund and any deficiency from time to time appearing therein by reason of the excess of disbursements over receipts shall be supplied out of Government revenues or Government borrowings.

(3) The Government may prescribe, the terms and conditions on which loans may be given, or grants made, out of the

general town-planning fund, to any Committee for the purpose of making or executing a town-planning scheme.

CHAPTER VII.

LAND ACQUISITION.

29. Immoveable property required for the purposes of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act and may be acquired—

(a) under the said Act, or

(b) under the said Act as modified in the manner herein after provided in this Chapter.

30. In cases falling under section 29 (b) a notification under section 10 shall, notwithstanding anything contained in the Land Acquisition Act, operate in respect of any land required for the purposes of the scheme as a declaration under sections 4 and 6 of the said Act and no further declaration shall be necessary, but it shall not be incumbent on the Government, or officer authorised in that behalf, to take immediate steps for the acquisition of such land: Provided that if the land is not acquired within three years from the date of notification it shall cease to have effect as a declaration under sections 4 and 6 of the Land Acquisition Act.

31. (1) The provisions of sections 15 and 23 and 24 of the Land Acquisition Act shall have no application in cases falling under clause (b) of section 29.

(2) In such cases, the Collector and the Court shall, in determining the amount of compensation to be awarded for the land acquired, take into consideration;

- (a) the market value of the land on the date of the resolution under section 6 or the publication of a notification under section 8, as the case may be;
- (b) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;
- (c) the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing such land from his other land or by reason of the acquisition injuriously

affecting his other property movable or immovable in any other manner, or his earnings : Provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed ;

- (d) If, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change : Provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed :

(3) But the Collector and the Court shall not, in cases falling under clause (b) of section 29 take into consideration—

- (a) the degree of urgency which has led to the acquisition or its compulsory character ;
- (b) any disinclination of the person interested to part with the land acquired ;
- (c) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit ;
- (d) any damage which is likely to be caused to the land acquired, after the date of the resolution under section 6 or the publication of a notification under section 8, as the case may be, by or in consequence of the use to which it will be put ;
- (e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;
- (f) any outlay or improvements on the land acquired, commenced, made or effected after the date of the publication of the notification referred to in clause (d) unless they are covered by a permission obtained under section 12 ;
- (g) any outlay or improvements on, or disposal of, the land acquired which, having regard to the time at which they were made and other circumstances, appear to have been commenced, made or effected with intent to obtain increased compensation ;
- (h) the special suitability or adaptability, if any, of the land for any purpose, is one to which it could be applied only in pursuance of statutory powers or for which there is no market apart from the special needs of a particular purchaser or the requirements of a Government department or any local or public authority.

(4) In cases falling under clause (b) of section 29 if the market value of any land or building is specially high by reason of the use thereof in a manner which could be restrained by any Court, or is contrary to law or public policy or is detrimental to the health of the inmates of the building or to the public health, the amount of the increased value due to such user shall be disregarded in determining the amount of compensation.

CHAPTER VIII.

MISCELLANEOUS.

32. The Committee shall be competent to make any Power of Committees to make agreements. agreement with any person in respect of any matter which is to be provided for in a town-planning scheme subject to the power of the Government to modify or disallow such agreement, and, unless, it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the scheme comes into force :

Provided that if the agreement be modified by the Government either party shall have the option of avoiding it if he so elects within the prescribed period.

33. Subject to such rules as the Government may make in Town-planning Committee. this behalf, the Committee may appoint a Sub- special town-planning Sub-Committee composed either wholly of members of the Committee, or partly of such members and partly of others, and may delegate to such Sub-Committee power to depose of, in relation to a particular scheme or to town-planning in general, matters of a specified nature which, under the provisions of this Act, are reserved for the decision of the Committee :

Provided that no person, other than a member of the Committee, shall be appointed to such Sub-Committee unless such appointment is supported by not less than one-half of the sanctioned strength of the Committee :

Provided also that the number of persons who are appointed to any Sub-Committee who are not members of the Committee shall not exceed one-third of the number of members of such Sub-Committee.

34. (1) If the Government are satisfied, after giving the Power of control of Government. Committee an opportunity of explanation, and considering any other representations that may be made to them, that the Committee —

(a) has failed to take the requisite steps for having a satisfactory town-planning scheme prepared and sanctioned in a case where a town-planning scheme ought to be made, or

(b) has failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted, or

(c) has unreasonably refused to consent to any modifications or conditions imposed by the Government, the Government may, as the case may require, order the Committee to prepare and submit for the approval of the Government such a town-planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted:

Provided that, where the Committee has failed to adopt a scheme, the Government, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Government think fit, and thereupon the scheme shall have effect as if it had been adopted by the Committee and sanctioned by the Government.

(2) The Government shall have over Committees in respect of Town-Planning Schemes, the same power of superintendence, inspection, supervision and enforcement of orders, as they have under the Jammu and Kashmir Municipal Act, the Jammu and Kashmir Town Area Act, or any other law for the time being in force.

35. For the purpose of making or executing any town-planning scheme, the responsible authority or any person authorised by such authority shall have the same power to enter upon, survey, inspect, evaluate and set up marks on property and to do all acts necessary for such purposes as are provided in the Municipal Act.

36. (1) The Government may make rules consistent with this Act either generally or for any particular area, to carry out all the purposes of this Act and such rules may be incorporated in any scheme by a reference thereto in the scheme, subject to any modifications that may be set out in the scheme.

(2) In particular and without prejudice to the generality of the foregoing power, the Government shall have power to make rules in respect of the following matters: —

- (a) the manner of publication of the notifications under section 7 and of the draft scheme under section 8;
- (b) the further particulars or plans for inclusion in schemes under section 3, clause (g) and section 9, sub-section (1) clause (f);
- (c) the scale of all plans made under this Act, the particulars to be shown in them, the manner in which such particulars shall be shown, the colouring of such plans and all such matters;
- (d) what streets or roads and improvements thereto

provided in a town-planning scheme shall be made or carried out at the expense of the Committee, the owners of property or both ;

- (e) the kinds of expenditure connected with town-planning which shall be met out of current revenue and those that shall be met out of loans of other capital receipts ;
- (f) what receipts shall be credited to the town-planning fund referred to in section 26 and what expenditure shall be debited to it ;
- (g) the powers that may be delegated to the Sub-Committees constituted under section 33 ;
- (h) the manner in which all documents and plans prepared under this Act shall be made accessible to the public ;
- (i) the procedure to be adopted for securing co-operation on the part of the Municipal authorities with the owners or persons interested in property proposed to be comprised in a town-planning scheme by such means as may be expedient, the summoning, presidency and procedure of such conferences and all such matters.
- (j) the procedure to be observed by the Committee and responsible authority in cases where owners commit default, or delay the carrying out of works or improvements, for carrying out such works or improvements, and for recovering the cost from the owners liable therefor ;
- (k) the securing of reasonable speed in the preparation or adoption of schemes by the Committee and the procedure to be followed for enabling the Government to act in the case of default or dilatoriness on the part of the Committee or the responsible authority, in making, adopting or executing a scheme and to recover from such Committee the expenses of such action ;
- (l) the calculations, assessment and collection of the betterment contribution ;
- (m) the regulation of the procedure before the arbitrator ;
- (n) the powers to be exercised by the responsible authority with respect to appointments and the matters on which and the manner in which he shall be consulted by Committees ;
- (o) the constitution of general town-planning fund, its administration and the accounts to be kept therefor ;
- (p) the accounts that each Committee shall keep for its

town-planning fund and their audit ;

- (q) the extent to which the proceedings and acts of the Committees under this Act shall be regulated by the provision of any Municipal or local laws applicable to such authorities ;
- (r) inquiries and reports as to the beginning and the progress and completion of works and other action under any scheme ;
- (s) sanitary principles and building regulations to be observed in drawing of schemes ;
- (t) the funds which shall be transferred by the Committee to the responsible authority, the administration of such funds, the accounts to be kept in respect thereof and their audit ;
- (u) matters other than those referred to in the foregoing clauses which are expressly required or allowed by this Act to be prescribed ;
- (v) any other matters for which the Government deems fit rules should be made.

(3) In making any rule, the Government may provide that breach thereof shall be punishable with fine which may extend to one hundred rupees.

37. The power to make rules under section 36 shall be subject to the condition of previous publication.
Previous publication of the rules.

38. Where a scheme sanctioned under this Act has provided that any person who commits or knowingly permits any breach of any specified provisions of the scheme or who neglects or fails to comply with any such provision shall be punishable under this section, the responsible authority shall send to any person who commits or knowingly permits a breach of any such provision of the scheme or neglects or fails to comply with any such provision, a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provision of the scheme.
Penalty for breach of the provisions of the scheme.

(2) If after the expiry of one month from the date of receipt of the notice by such person under sub-section (1) the breach or neglect or failure continues, such person shall, on conviction, be punishable.

- (i) with fine which may extend to one hundred rupees, and
- (ii) if the breach, neglect or failure, continues after such conviction, with fine which may extend to fifteen rupees for every day during which the breach, neglect or failure continues after such conviction.

CHAPTER IX.

TRANSFER OF PROCEEDINGS.

39. (1) The Government may, by notification and from a date to be specified in such notification, ^{Transfer of proceedings from one authority to another.} transfer the proceedings commenced under this Act in respect of any land by any authority having jurisdiction to any other authority having jurisdiction over such land.

(2) Before issuing a notification under sub-section (1) the Government shall communicate to the authorities affected the grounds on which they propose to make the transfer, fix a reasonable period for them to show cause against the proposal and consider their objections, if any.

(3) The authority to whom a transfer of proceedings is made under sub-section (1) may continue such proceedings from the stage which they had reached on the date specified in the notification.

(4) When making a transfer of proceedings under sub-section (1), the Government may direct the authority to whom the transfer is made to reimburse the authority from whom the transfer is made the next expenditure which the last mentioned authority up to the day of such transfer, may have incurred on such proceedings.

(5) From the date specified in the notification under sub-section (1) all rights and assets which, for the purposes of the proceedings transferred by such notification, are vested in, and all obligations and liabilities which for the same purposes are enforceable against the authority from whom the transfer is made shall vest in or be enforceable against the authority to whom the transfer is made.

(Sd.) K. L. KICHLU,
PRESIDENT,
Jammu and Kashmir Praja Sabha.

PRAJA SABHA DEPARTMENT.

CERTIFICATE.

The above Act was passed by the Jammu and Kashmir Praja Sabha on 20th April, 1940 and received the assent of His Highness the Maharaja Bahadur on 15th July, 1940.

(Sd.) HIRANAND RAINA,
Secretary to the Government, Praja Sabha Department.



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